

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT**

**Thursday, March 22, 2018
9:00 a.m.
Room 105 Courthouse Annex
Cascade County Commissioners Chambers**

SUP #01-18

Subject Property Information

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| Name of Applicant: | Steven and Lanell Bailey 1312 Beargrass Dr. Great Falls, MT 59404 |
| Owner(s): | Steven and Lanell Bailey 391 Flood Rd. Great Falls, MT 59404 |
| Legal Description: | S04, T19N, R3E |
| Geo- Code(s): | 02-2892-04-2-04-06-0000 |
| Parcel Number(s): | 0002373820 |
| Existing Zoning: | Flood Road Overlay District |
| Requested Action: | Approval of a Special Use Permit to allow 2 nd dwelling. |
| Surrounding Land Uses / Zoning: | North: Residential / FOD South: Agriculture / FOD East: Agriculture / FOD West: Agriculture / FOD |
| Current Land Use: | Residential Use |
| Applicable Regulations: | Sections 17.3, 7.1.2.3(1), 7.1.1.3(1), & 10 Cascade County Zoning Regulations |

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application from Steven and Lanell Bailey to allow a 2nd dwelling on their land at 391 Flood Rd., Great Falls, MT. The applicant is requesting that a Special Use Permit be granted as required by Section 17.3, 7.1.2.3(1), and 7.1.1.3(1) of the Cascade County Zoning Regulations.

General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

Expiration

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

Findings of Fact:

1. The property is in a Flood Road Overlay (FOD) Zoning District. The proposed 2nd dwelling is allowed in the Flood Road Overlay District pursuant to Section 17.3 of the Cascade County Zoning Regulations. The section reads, “[See Suburban Residential 2 (SR-2)]. Section 7.1.2.3 of the Cascade County Zoning Regulations. The section reads, “[Uses Permitted Upon Issuance of a Special Use Permit] (1): ...as set forth under RR-5 District regulations may be used in SR-1 and SR-2 Districts.] Therefore 7.1.1.3(1) reads “A second dwelling, including ... 2 single family homes”
2. Steven and Lanell Bailey are the legal owners of the property.
3. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance, and county taxes are current.
4. Legal Notice of the application and the public hearing was published in the Great Falls Tribune on March 11, 2018 and March 18, 2018. As of writing this staff report, planning staff have received zero phone calls or written comments/concerns.
5. A special use permit may be revoked by the Cascade County Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
6. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.
7. Applicant has utilities servicing the current residence on the property.
8. Access to new dwelling unit will be through applicant’s current driveway on the parcel.

Findings with Respect to the Analysis Criteria

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb approaches:

Applicant: There would be a minimal change to the current traffic conditions.

Staff: The applicant's two son's live in the existing home on the property and the family has a small number of cattle that they go and tend to on a regular basis. Planning staff feels that there will be minimal to no changes to the traffic conditions.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

Applicant: With the existing home in place utilities are already available. We have a few cows on the adjacent parcel so we started garbage collection last year.

Staff: Staff feels that there will be no effect on the utilities at, or around the proposed parcel.

- c. Soil erosion and sedimentation.

Applicant: The majority of the 12 acres will remain undisturbed so soil erosion, sedimentation and stormwater run-off shouldn't change.

Staff: Planning staff feels that this use will have minimal to non-existent effects on soil erosion and sedimentation. No surrounding water supplies will be affected.

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant: We will go through the Cascade Health Department to verify sewer is away from the water source and that use comply with all policies and procedures.

Staff: Planning staff feels that this use will have a minimal disturbance to the surrounding neighbors in relationship to traffic count.

3. The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: All surrounding properties are residential in nature. An addition of another home will have little or no impact to any adjoining properties.

Staff: Staff feels that a second dwelling will not negatively impact the surrounding properties due to those being mostly residential and agricultural uses.

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant: An addition of a home to this parcel will not have any impact on the adjoining properties.

Staff: Staff feels the proposed SUP will have no affect with the surrounding uses considering the surrounding uses (Residential/Ag) are the same as the proposed SUP use.

4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: The addition of our home will improve the character of our parcel and improve the value of the surrounding development.

Staff: Staff feels the residence will be in harmony with existing residences considering there are other homes in the area of the proposed site.

5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

- a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. *Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.*
- B. *Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.*
- C. *Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.*
- D. *Promote the development of cultural resources and tourism to broaden Cascade County's economic base.*
- E. *Foster and stimulate well-planned entrepreneurship among the county's citizenry.*
- F. *Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.*

- G. *Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.*
- H. *Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.*
- I. *Encourage the growth of the agricultural economy.*
- J. *Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.*

Applicant: The addition of our home may not directly affect or stimulate the retention of business but the addition of our family does add value to the county. Steve is a doctor that is employed at Benefis and Lanell enjoys shopping and dining within Great Falls. By allowing us to build our beautiful home on the property we will be adding additional taxable growth and improve the value of this subdivision.

Staff: Staff feels the placement of a second home will not negatively impact business, tourism, agriculture, and neighboring economic development.

GOAL 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

Objectives:

- A. *Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.*
- B. *Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.*
- C. *Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.*
- D. *Assure clean air, clean water, a healthful environment and good community appearance.*
- E. *Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.*

- F. *Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.*

Applicant: The addition of our home would meet these objectives because we are wanting to build on a parcel that currently has an existing home (built in 1940). Our home will be beautiful and rustic so it will foster the beauty and not be “out of place” when compared to the other homes nearby.

Staff: Staff feels that this SUP will not negatively impact the historic relationship with the natural resources. The placement of the home on this land will be a minimal alteration to the existing use.

GOAL 3: Maintain Agricultural economy

- A. *Protect the most productive soil types.*
- B. *Continue to protect soils against erosion.*
- C. *Protect the floodplain from non-agricultural development.*
- D. *Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.*

Applicant: The location of our home will not directly affect the agriculture but we own an adjacent property that is in the floodplain which has a hayfield that has gone dormant. We will actively work to bring it back to full production and maintain the weed control that has not been managed well in years.

Staff: The home should not have any impact on the existing soils. The applicants plan to use their land south of the proposed parcel as a hayfield. According to the National Cooperative Soil Survey, ninety percent of the parcel has soil that is classified as “Farmland of Statewide Importance.” However, the parcel has never been used as farm land before. With this in mind, staff agrees that it would meet this goal of protecting productive soil, erosion, the floodplain from non-agricultural uses, and value-added agricultural industry in Cascade County.

GOAL 4: Retain the presence of the US Military in Cascade County.

Objectives:

- A. *Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.*

B. Promote the location of additional military missions in Cascade County.

C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.

D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Applicant: Our parcel is about 15 miles from Malmstrom Air Force Base so this addition would not affect their runway.

Staff: The placement of the home will be out of the Height Military Overlay District and at least ten miles away from the nearest launch facility.

GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Objectives:

A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.

B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.

C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.

D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

Applicant: An addition of our house would help the prevention of fire because I would be able to clean the property of dead bush and trees. This addition would also improve development in the area as our home would be an improvement to the parcel.

Staff: The proposed structure will likely not positively or negatively affect the Cascade County's citizens' rural lifestyle. The proposed parcel of land is serviced by the Gore Hill Fire Department.

- b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

Applicant: The addition of our home would help as it is adding a home to the 12 acre parcel already designated as residential.

Staff: The application will likely not have a negative impact on the municipal or joint land use plans.

Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Motions:

The following motions are provided for the board's consideration:

- A. Alternative 1: Move the Special Use Permit to allow the placement of a 2nd dwelling at 391 Flood Rd, Great Falls, MT parcel # 0002373820, be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Alternative 2: Move the Board adopt the staff report and **approve** the Special Use Permit to allow the placement of a 2nd dwelling at 391 Flood Rd, Great Falls, MT, parcel # 0002373820 subject to the following conditions:
 1. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
 2. Applicant obtains address from Cascade County Public Works / GIS / Mapping Addressing for E911 purposes
 3. Applicant obtains approval for septic permit from City-County Health Department to install septic system

Attachments:

- Special Use Permit Application, Site / Vicinity / Zoning Map
- Applicable Zoning Regulations, highlighted.

cc: Steven and Lanell Bailey